IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 7415 of 2005

Between:

P.V.Ramana Murthy, S/o.Sri Satyanarayana Murthy,
R/o.H.No.6-22-3/1, Chintaluri Street,
Innispeta, Rajahmundry, East Godavari District.

..... PETITIONER

AND

1 The Govenment of A.P., rep.by its Secretary, Energy (CC-B) Department, Secretary, Hyderabad.
2 The Director of Boilers, Andhra Pradesh, Hyderabad.
3 The Inspector of Boilers, Kakinada Circle, Kakinada, East Godavari Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction or writ particularly one in the nature of certiorari and after calling for the records in O.A.NO.7734 of 1998 dated 24-1-2003, quash the same and consequently set aside the orders passed by the Director of Boilers, A.P.Hyderabad in proceedings No.A1/3198/98 dated 25-9-1998 as illegal, arbitrary and violative of Article 14, 16 and 311 of the constitution of India.

Counsel for the Petitioner: SMT.K.UDAYA SRI

Counsel for the Respondents: GP FOR ENERGY

The Court made the following :

ORAL ORDER: (Per Hon'ble Sri Justice G.Bikshapathy)

1. This writ petition is filed challenging the order passed by the A.P. Administrative Tribunal, Hyderabad in O.A.No.7734 of 1998, dated 24.1.2003.

2 . The petitioner is the applicant before the Tribunal. He filed O.A.No.7734 of 1998 assailing the order of termination, dated 25.9.1998. The principal contention of the petitioner before the Tribunal was that without conducting any enquiry, the order of termination was passed which is punitive in nature, and therefore, the order passed by the Department is not sustainable in law. But, however, the Tribunal dismissed the O.A. by an order, dated 24.1.2003. Against the said dismissal order, this writ petition has been filed.

3 . The learned counsel for the petitioner submits that when the termination is effected by attaching a stigma, it is incumbent on the part of the authorities to conduct an enquiry in accordance with the rules and pass appropriate orders. But in the instant case, no such enquiry was conducted according to the rules and a show cause

notice was issued which was replied by denying the allegations leveled against the petitioner. Inasmuch as no enquiry was conducted, the order of termination is illegal and contrary to the rules and principles of natural justice. The learned counsel would also rely on the common judgment rendered by a Division Bench of this Court in W.P.Nos.2624 and 2625 of 2002, dated 3.12.2003.

4 . The learned Government Pleader for Energy submits that inasmuch as the petitioner was only a temporary employee, show cause notice was issued and appropriate orders have been passed. Therefore, it cannot be said that there is any violation of principles of natural justice. He further submits that no enquiry was conducted inasmuch as he was only a temporary employee.

5 . We are unable to agree to the contention of the learned Government Pleader. The termination is sought to be effected on the ground of misconduct. In the instant case, the allegation related to the suppression of material particulars at the time of seeking employment on compassionate appointment and it is obviously misconduct under A.P. Civil Services (C.C. & A) Rules, 1963. Under these circumstances, irrespective of the fact that whether the employment is either temporary or permanent, when the termination is sought to be effected on the ground of misconduct, it is obligatory on the part of the authorities to conduct an enquiry in accordance with the rules and pass appropriate orders.

6 . Under those circumstances, the order of the Tribunal is not sustainable and accordingly it is set aside. Since the petitioner was terminated on 25.9.1998, we direct the authorities to conduct an enquiry in accordance with the rules. The period from the date of termination till the date of completion of the enquiry shall be treated as if the petitioner is under suspension and he is entitled to the subsistence allowance as applicable under the rules.

7. With the above direction, the writ petition is disposed of. No costs.

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(G. BIKSHAPATHY, J.)

12th April, 2005

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(P.S. NARAYANA, J.)

bcj/bcs

To

1 The Govenment of A.P., rep.by its Secretary, Energy (CC-B) Department, Secretary, Hyderabad.
2 The Director of Boilers, Andhra Pradesh, Hyderabad.
3 The Inspector of Boilers, Kakinada Circle, Kakinada, East Godavari Dist.

4 Two C.Cs. to the Government Pleader for Energy, High Court Buildings, Hyderabad (OUT)

5 Two C.D copies